

CLAIMS REJECTIONS-35 USC 112:

75 The examiner has stated that Claims 1-8 are rejected under
35 U.S.C. 112, second paragraph, as being indefinite for
failing to particularly point out and distinctly claim the
subject matter which the applicant regards as the
invention. The examiner noted that claims 1-8 include many
80 terms which do not have proper support in the specification
(note the comments relative to the objection to the
specification).

The examiner further states that Claims 1-8 are objected
85 for the following reasons:

Note that phrase "D-DAFO (DeRoss---Orthosis)" claims
1,8), or "D-DAFO" (claims 2-7) render the scope of the
claim unclear. Applicant is advised to remove these
90 citations from the claims. The following terms lack
antecedent basis: "said anterior shell" (Claim 1), "said
elastic strap" (claim 6).

The applicant has responded to the examiner's claim
95 rejections by amending Claims 1-8 and providing antecedent
basis for every term used in the claims by reviewing and
correcting the specification. The applicant has also
complied with the examiner's objections for providing
proper antecedent basis for the claimed subject matter
100 (ie. 37 CFR 1.75 (d) (1) and MPEP 608.01 (c).)

The applicant has further complied with the examiner's
objections to Claims 1-8 by removing the phrase "D-DAFO
DeRoss---Orthosis) from Claims 1-8 as required.
105 Both claims 1 and 6 have been amended to correct the lack
of proper antecedent basis to overcome the examiner's
objections for Claims 1-8.

110 CLAIM REJECTIONS- 35 USC 103:

The examiner has stated that claims 1-3 and 5-7 are rejected under 35 U.S. C. 103 (a) as being unpatentable Over Wang in View of Davies et al and Procelli, and/or
 115 Bourque et al. The examiner further states as for claim 1, Wang teaches every feature of claim 1 except for an anterior shell and a tongue. Davies et al teaches a tongue 12, Porcelli, Nichols, and Bourque et al teach an anterior members 23a (Porcelli), 13 (Nichols), 42 (Bourque et al).
 120 In view of sthe teachings of Davies et al and Porcelli, and/or Bourque et al, it would have been obvious to and ordinary skill in the art at the time the invention was made to provide the brace of Wang with an anterior shell for protecting the front opening of the tibia, and with a
 125 tongue for protecting the upper part of the foot. The examiner further states that the provision of a well known structure such as an anterior shell or tongue for a brace is only a matter of engineering choice, and therefore is not patentable from prior art. The examiner notes Figures
 130 6-8 of Wang in Claim 2 and a pair of lower flanges 63 (Fig 7) of Wang, or the lower flanges of Porcelli, or the lower flanges of Nichols in Claim 3. The examiner notes Figure 7 of Claim 6 of Wang. The examiner further notes that the use of rivet fasteners is very well-known in the art and
 135 therefore is not patentable over the prior art.

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145 The applicant respectfully responds to the examiner's
rejections for Claims 1-3 and 5-7 as follows:

The invention of Wang is purely a static structure
apparatus providing a rigid plate conforming to an injured
body part. It does not address the dynamic features of the
150 subject patent dynamic ankle foot orthosis. Wang not only
does not teach an anterior shell and tongue, but does not
teach the dynamic stability of the subject patent.

The tongue (9) and the and pre-tibial shell (8) provide a
155 unique forward and backward movement. This movement of the
top half of the tongue (9) (at the ankle axis) and pre-
tibial shell (8) create the foundation of the dynamic ankle
foot orthosis giving it dynamic stability. These dynamics
allow the patient's tibia to rotate forward (anteriorly)
160 and yet supported. Wang's invention teaches purely a rigid
structure plate, immobilizing the injured body part on the
rigid plate.

Davies teaches a tongue 12 used in a walking splint and is
165 purely for retaining the foot with a plurality of straps
and slots to immobilize the ankle joint. It does not teach,
claim, or disclose the applicant's dynamic stability
through movement of the top half of the tongue (9) at the
ankle axis and pretibial shell (8) in his invention either
170 alone or in any "fair" combination.

Porcelli teaches a foot brace with a heel cup and clamp
means to be tightened around the leg. The combination of
the foot brace with a heel cup and clamping means does not
175 teach the "dynamic stability" of the subject patent with
the movement of the tongue and pre-tibial shell to provide
the unique forward and backward movement of the subject
patent. In the subject patent, these dynamics allow the

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patient's tibia to rotate forward (anteriorly) and yet supported! Porcelli does not teach the anterior shell of the subject patent either in the specification or claims.

185 Nichols teaches only a shoe closure for lacing and retaining to the foot through a combination of flaps and eyelets. It does not teach nor disclose the subject patent and its features either alone, or in any "fair" combination.

190 The sports boot strap closure system described in Bourque et al provides a hinge that movably attaches the ankle portion to the upper foot portion for limited rotation. It does not teach, describe, disclose or claim the subject invention either alone or in any "fair" combination.

195 It would be unobvious to one of ordinary skill in the art to combine the static brace of Wang with a tongue and anterior shell to attain the novel features of the subject invention in providing dynamic stability with its unique
200 forward and backward movement with the tongue and pretibial shell with the Porcelli, Nichols, Bourque et al, Davies Patents either alone or in any "fair" combination.

205 This movement of the top half of the tongue and pretibial shell of the subject patent create the uniqueness and foundation of the dynamic ankle foot orthosis giving it dynamic stability. The dynamics allow the patient's tibia to rotate forward (anteriorly) and yet supported. The D-DAFO Dynamic Ankle Orthosis continuously provides the
210 support to hold the patient in STN (sub-talar neutral) while simultaneously maintaining tone and extension synergy. These novel features of the subject patent are not disclosed, described or claimed totally in any of the reference patents and cannot be disclosed in any "fair"
215 combination.

220 The examiner has rejected Claims 4 and 8 under 35 USC 103a
as being unpatentable over Wang in view of Davies et al
and Porcelli, and further in view of Andrews. The examiner
states that it would be obvious to an ordinary skill in the
art to use the elastic strap for the brace of Wang. The
225 examiner notes the liner of 11 in Davies et al, as for
Claim 8.

The applicant responds to the examiner's rejection stating
as follows:

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Claim 4 is a dependent claim for Claim 1. Although the
elastic strap is taught by Andrews, the attachment means
provided for securing the posterior base shell or said
outer anterior shell in the ankle foot orthosis with the
235 elastic strap of Claim 1 is not taught by either Wang,
Davies et al, Porcelli, and/or Nichols either individually,
or in any fair combination.

The liner provided by Davies et al does not teach,
240 disclose, or Claim the subject invention either alone or in
any "fair" combination in view of Wang, Porcelli, and/or
Nichols. Therefore, the subject invention is unobvious
over the the prior art cited under 35 USC 103 (a), either
alone or in any "fair" combination.

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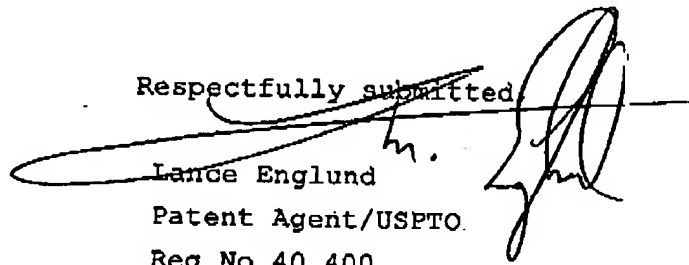
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260 The applicant has therefore overcome all the examiner's
objections and rejections for the pending specification
and the amended claims. The examiner requests
reconsideration of the objections and rejections cited
by the examiner and further requests that the applicant's
novel patent be allowed to issue.

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Respectfully submitted,



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Lance Englund

Patent Agent/USPTO

Reg No 40,400

1472 Ashover Drive

Bloomfield Hills, Mich 48304

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Ph (248) 703-4979; (800) 795-0233

FAX (248) 852-0544

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